

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

RICHARD N. PALMER,

Defendant.

CASE NO. 8:10CR121

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 13). The government adopted the PSR (Filing No. 15). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the following paragraphs of the PSR: ¶ 29 and related paragraphs - the amount for guideline purposes; ¶ 80 and related paragraphs - the amount for restitution purposes; ¶ 23 - third party risk; and ¶ 30 - abuse of trust or special skill. The objections, if not withdrawn, will be heard at sentencing.¹ The Defendant has the burden regarding ¶ 23, and the government has the burden with respect to the remaining paragraphs. The burden of proof with respect to all objections is by a preponderance of the evidence. The Defendant also requests a variance.

¹If any of the objections will be withdrawn and as a consequence less time will be needed for the sentencing hearing, the parties should notify Edward Champion at their earliest convenience.

IT IS ORDERED:

1. The Defendant's objections and request for a variance (Filing No. 13) will be heard at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and
4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 20th day of June, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge